

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36999

STATE OF IDAHO,)	2010 Unpublished Opinion No. 525
)	
Plaintiff-Respondent,)	Filed: June 24, 2010
)	
v.)	Stephen W. Kenyon, Clerk
)	
DANIEL ALBERT GARZA,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. G. Richard Bevan, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Sarah E. Tompkins, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before GUTIERREZ, Judge; GRATTON, Judge;
and MELANSON, Judge

PER CURIAM

Daniel Albert Garza pled guilty to possession of a controlled substance. I.C. § 37-2732(c)(1). The district court sentenced Garza to a unified term of six years, with a minimum period of confinement of three years. The district court, however, retained jurisdiction and allowed Garza to participate in the rider program. Thereafter, the district court relinquished jurisdiction. Garza filed an I.C.R. 35 motion, which the district court denied. Garza appeals.

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of

new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Upon review of the record, including the new information submitted with Garza's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Garza's Rule 35 motion is affirmed.